

By: Berman

H.B. No. 302

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the enforcement of state and federal laws governing
3 immigration by certain governmental entities; providing a civil
4 penalty.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. Section 370.003, Local Government Code, is
7 amended to read as follows:

8 Sec. 370.003. LOCAL GOVERNMENT [~~MUNICIPAL OR COUNTY~~] POLICY
9 REGARDING ENFORCEMENT OF STATE AND FEDERAL [~~DRUG~~] LAWS. (a) This
10 section applies to:

11 (1) the [~~The~~] governing body of a municipality, [~~the~~
12 ~~commissioners court of a~~] county, or special district or authority;

13 (2) an officer, employee, or other body that is part of
14 a municipality, county, or special district or authority, including
15 a sheriff, municipal police department, municipal attorney, or
16 county attorney; or

17 (3) a[~~7~~] district attorney[~~7~~] or criminal district
18 attorney.

19 (b) An entity described by Subsection (a) may not adopt a
20 policy under which the entity will not fully enforce the laws of
21 this state or federal law, including laws relating to:

22 (1) drugs, including Chapters 481 and 483, Health and
23 Safety Code; and

24 (2) immigrants or immigration, including the federal

1 Immigration and Nationality Act (8 U.S.C. Section 1101 et seq.)~~[7~~
2 ~~and federal law]~~.

3 (c) In compliance with Subsection (b)(2), an entity
4 described by Subsection (a) may not prohibit or in any manner
5 restrict a person employed by or otherwise under the direction or
6 control of the entity from doing any of the following:

7 (1) with respect to information relating to the
8 immigration status, lawful or unlawful, of any individual:

9 (A) sending the information to or requesting or
10 receiving the information from United States Citizenship and
11 Immigration Services or United States Immigration and Customs
12 Enforcement, including information regarding an individual's place
13 of birth;

14 (B) maintaining the information; or

15 (C) exchanging the information with another
16 federal, state, or local governmental entity;

17 (2) assisting or cooperating with a federal
18 immigration officer as reasonable and necessary, including
19 providing enforcement assistance; or

20 (3) permitting a federal immigration officer to enter
21 and conduct enforcement activities at a municipal or county jail to
22 enforce federal immigration laws.

23 (d) An entity described by Subsection (a) may not receive
24 state grant funds if the entity adopts a rule, order, ordinance, or
25 policy under which the entity will not fully enforce the laws of
26 this state or federal laws relating to Subsection (b)(2) or, by
27 consistent actions, fails to fully enforce the laws of this state or

1 federal laws relating to Subsection (b)(2). State grant funds for
2 the entity shall be denied for the fiscal year following the year in
3 which the rule, order, ordinance, or policy is adopted or the
4 determination is made that the entity has intentionally failed to
5 fully enforce the laws of this state or federal laws relating to
6 Subsection (b)(2). The Governor's Office of Budget, Planning, and
7 Policy shall adopt rules to implement this subsection uniformly
8 among the state agencies from which state grant funds are
9 distributed to an entity.

10 (e) Any citizen residing in the jurisdiction of an entity
11 described by Subsection (a) that allegedly adopts a rule, order,
12 ordinance, or policy under which the entity will not fully enforce
13 the laws of this state or federal laws relating to Subsection (b)(2)
14 or, by consistent actions, fails to fully enforce the laws of this
15 state or federal laws relating to Subsection (b)(2) may file a
16 petition in a district court of a county in which the principal
17 office of the entity is located for a writ of mandamus to compel
18 compliance with Subsection (b)(2).

19 (f) An elected official of an entity described by Subsection
20 (a) who violates Subsection (b)(2) or (c) is liable to the state for
21 a civil penalty in an amount of not less than \$1,000 or more than
22 \$5,000. The attorney general may recover a penalty under this
23 subsection in a suit brought on behalf of the state. Money collected
24 under this subsection shall be paid to the comptroller for deposit
25 in the general revenue fund.

26 SECTION 2. The heading to Chapter 370, Local Government
27 Code, is amended to read as follows:

1 CHAPTER 370. MISCELLANEOUS PROVISIONS RELATING TO [~~MUNICIPAL~~
2 ~~AND COUNTY~~] HEALTH AND PUBLIC SAFETY APPLYING TO MORE THAN ONE
3 TYPE OF LOCAL GOVERNMENT

4 SECTION 3. This Act takes effect immediately if it receives
5 a vote of two-thirds of all the members elected to each house, as
6 provided by Section 39, Article III, Texas Constitution. If this
7 Act does not receive the vote necessary for immediate effect, this
8 Act takes effect September 1, 2011.